

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JOSE DECASTRO,

PLAINTIFF,

v.

EVAN MCKNIGHT, *et al.*,

DEFENDANTS.

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Case No. 2:24-cv-00435-DJA

**LAWRENCE COUNTY DEFENDANTS’ MOTION REQUESTING THE MOTION TO
DISMISS (DOC. #: 19) BE GRANTED DUE TO PLAINTIFF’S FAILURE TO RESPOND**

Now come Defendants John Chapman and the Lawrence County Commissioners (collectively referred to as the “Lawrence County Defendants”), by counsel, respectfully requesting this Court grant the Motion to Dismiss (Doc. #: 19) pursuant to LR 7-2. A Memorandum in Support is attached hereto and incorporated by reference.

Respectfully Submitted,

/s/ Cassaundra L. Sark
Cassaundra L. Sark (0087766)
Lambert Law Office
P.O. Box 725
Ironton, OH 45638
(740) 532-4333
(740) 532-7341 – Fax
Counsel for Lawrence County Defendants

MEMORANDUM IN SUPPORT

Local Rule 7-2 sets forth parameters for filing, and responding to, motions in the United States District Court for the District of Nevada. The aforesaid Rule provides that the deadline to file and serve any points and authorities in response to a motion, other than a motion for summary judgment, is 14 days after service of the motion. LR 7-2(b). Additionally LR 7-2(d) provides that “[t]he failure of an opposing party to file points and authorities in response to any motion, except a motion under Fed. R. Civ. P. 56 or a motion for attorney’s fees, constitutes a consent to the granting of the motion.”

On March 25, 2025, the Lawrence County Defendants filed a Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(3) and 12(b)(6). (Doc. #: 19). The Minute Order in Chambers, on March 26, 2025, held that Plaintiff’s opposition to the Lawrence County Defendants’ Motion to Dismiss was due fourteen (14) days from the date of the Minute Order. (Doc. #: 21). The next day, the City of Ironton Defendants filed their Motion to Dismiss. (Doc. #: 22). The Minute Order in Chambers, on March 27, 2025, held that Plaintiff’s opposition to the City of Ironton Defendants’ Motion to Dismiss was due fourteen (14) days from the date of the Minute Order. (Doc. #: 26).

Plaintiff failed to respond to the Lawrence County Defendants and the City of Ironton Defendants’ Motions within the required fourteen (14) days. Instead, on April 14, 2025, Plaintiff filed a Motion to Extend Time to Respond to the Lawrence County Defendants’ Motion to Dismiss. (Doc. #: 27). On April 16, 2025, this Court granted Plaintiff’s aforesaid Motion and held that his response was due on May 12, 2025. (Doc. #: 28).

Similarly, on April 30, 2025, Plaintiff filed a Motion for Leave to File a Late Opposition to the City of Ironton Defendants’ Motion to Dismiss. (Doc. #: 29). The same day, Plaintiff filed his Response to the City of Ironton Defendants’ Motion to Dismiss. (Doc. #: 30). The aforesaid

Response specifically noted that it was filed in “Opposition to Defendants Motion to Dismiss (DOC 22).” (Doc. #: 30, Page 1).

In this case, although Plaintiff requested an extension of time to respond to the Lawrence County Defendants’ Motion to Dismiss (Doc. #: 19), he failed to ever file a response. Plaintiff was given until May 12, 2025 to file his response (Doc. #: 28), and as of today’s date, it has been over a month since the aforesaid deadline elapsed. Pursuant to LR 7-2, since Plaintiff failed to file any opposition, he consents to the granting of the Lawrence County Defendants’ Motion to Dismiss. *See Harfouche v. Stars on Tour, Inc.*, No. 2:13-CV-00615-LDG, 2013 WL 4786488, *1 (D. Nev. 2013) (“LR 7-2 provides that, ‘[t]he failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion.’ LR 7-2(d). Plaintiff has not filed any opposition and, therefore, the Court concludes that Plaintiff consents to the granting of [Defendant’s] Motion.”). Thus, the Lawrence County Defendants respectfully request this Court grant the Motion to Dismiss due to Plaintiff’s failure to file a response in opposition.

Respectfully Submitted,

/s/ Cassaundra L. Sark
Cassaundra L. Sark (0087766)
Counsel for Lawrence County Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the Lawrence County Defendants' Motion Requesting The Motion To Dismiss (Doc. #: 19) Be Granted Due To Plaintiff's Failure To Respond was provided via the Court's electronic filing system (CM/ECF) on the 24th day of June 2025 and e-mailed and mailed, postage prepaid, via USPS to the following:

Jose DeCastro
1258 Franklin Street
Santa Monica, CA 90404
lamalaskan@gmail.com

/s/ Cassaundra L. Sark
Cassaundra L. Sark (0087766)
Counsel for Lawrence County Defendants